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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,406	11/01/2006	Andreas Durner	8313	3760
67886	7590	08/06/2008		
WOODLING, KROST AND RUST 9213 CHILLICOTHE ROAD KIRTLAND, OH 44094			EXAMINER MAL HUY KIM	
			ART UNIT 2873	PAPER NUMBER
			MAIL DATE 08/06/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/581,406

Applicant(s)

DURNER ET AL.

Examiner

Huy K. Mai

Art Unit

2873

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Specification

1. The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.
2. The disclosure is objected to because of the following informalities: It appear that the disclosure of the instant application is an International Publication No. WO 2005/054925 A1. The disclosure should be present in separated sheets with labeled the numeral order on each sheet and apart from any other text.

Appropriate correction is required.

Drawings

3. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

Claim Objections

4. Claims 1-19 and 21 are objected to because of the following informalities:

The limitations "work together" (claim 1, line 14) and "the real relationships" (claim 1, lines 15) should be clarified; otherwise, they render claim unclear. It is unclear how the camera 20 works together with the eyepiece? What does the applicant mean by "real" in the real relationships with the user? Does the applicant refer to in real time?

Claim 3 should be clarified; otherwise, the feature "the eyepiece of one display means" (claim 3, line 4) is undefined.

The phrase "available light levels" (claim 10, line 2) should be clarified; otherwise, the word "available" renders claim indefinite.

The phrase "which moves noise and interference, especially noise in the near-infrared range, i.e., at wavelength of 650-1200 nm" (claim 13, lines 3-4) should be expressed in a better phrase such as --which moves noise and interference in the near-infrared range of 650-1200 nm-- for example.

Regarding claim 15, the phrase "*for example*" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claims 19 and 21 should be clarified; otherwise, the phrases "the system" (claim 19, line 4) and "the false-color components" (claim 21, line 5) have no antecedent basis. The word "specific" renders the claim indefinite because it is unclear how the purpose can be specific. See MPEP § 2173.05(d).

Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Spitzer (US 6,091,546).

The limitations in claims 1-19 and 21 are shown in Spitzer's Figs.1-10, columns 4-7. Spitzer discloses electronic spectacles 100, especially night-vision spectacles, comprising an electronic camera (110) integrated into the spectacles as the primary recording means for the user of the spectacles, the camera being provided with an objective lens and a CCD sensor; an image-processing unit, which is connected downline from the camera (110) and which electronically processes the image recorded by the camera (110) and sends an output signal to display means (102), one of which is assigned to each eye, for reproduction of the image; and an eyepiece lens (102), one of which is connected downline from each display means (102), characterized in that the camera (110), the display means (102), and the eyepiece lens (102) are designed to work together in such a way that the dimensions of the displayed image which the user detects during use correspond to the real relationships which the user would see in a direct view without restriction; wherein the eyewear can be applied such as a surveillance system.

Regarding claim 2, the center axis of the display means (102), the optical axis of the eyepiece lens (102), and the associated axis of the user's eye are aligned concentrically with each other.

Regarding claims 4 and 5, Spitzer (Figs 21) discloses the display means is provided with tow camera including imaging processing unit.

Regarding claims 9 and 13, Spitzer (column 7, lines 5-18) discloses an infrared sensor, it inherent that it sensitivity with a wavelength in the range of 500-1200 nm.

Art Unit: 2873

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy Mai whose telephone number is (571) 272-2334. The examiner can normally be reached on M-F (8:00 a.m.-4:30 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky L. Mack can be reached on (571) 272-2333. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1562.

/Huy Mai/
Huy Mai
Primary Examiner, Art Unit 2873

HM
August 6, 2008